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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,423	04/09/2004	Thomas H. Walters	702.345	1221

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EXAMINER

HERNANDEZ, OLGA

ART UNIT PAPER NUMBER

2144

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/821,423

Applicant(s)

WALTERS ET AL.

Examiner

Olga Hernandez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 4/9/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 8, 7, 10, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turetzky et al (6,529,829).

As per claims 1 and 10, Turetzky teaches:

- providing a first handheld navigation device, the first navigation device and an integral display (column 4, lines 59-67);
- providing a second navigation device to communicate with the first navigation device, the second navigation device including one or more dead reckoning positioning components (column 4, lines 59-64 and column 3, lines 25-27);
- resolving a position of the first and the second navigation devices, wherein resolving the position includes using the one or more dead reckoning positioning components to determine the position when the triangulation positioning functionality is interrupted (column 3, lines 38-42).

Turetzky does not mention the use of triangulation. However, it is obvious to one of ordinary skill in the art that any navigation system needs at least three satellites (triangulation) to work properly in the position detection. Further it is obvious that the PDA used by the prior art has a display device.

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As per claims 2 and 7, Turetzky teaches providing a handheld multifunction device selected from a group of a PDA enabled device and a cell phone enabled device (column 4, line 59-67).

As per claim 8, it is inherent for a navigation system to display the position of a device, which has the receiver.

As per claim 12, it would have been obvious to one of ordinary skill in the art that any related data is going to be from any vehicle that uses navigation system.

3. Claims 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turetzky et al (6,529,829) in view of Hakala et al (6,452,544).

As per claims 3 and 4, Turetzky does not teach the PDA having an integrated compass. However, Hakala teaches it in column 11, lines 21-23. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to provide a portable map viewing capable of indicating the current location of the user.

As per claim 5, neither, Turetzky nor Hakala teaches the portable device including a rate gyro. However, Hakala teaches the integrated compass that performs the same function. Therefore, it would have been obvious to one of ordinary skill in the art to substitute any means for another means in order to reduce costs.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turetzky et al (6,529,829) in view of Horvitz et al (6,601,012).

Turetzky does not teach the PDA having an accelerometer. However, Horvitz teaches it in column 10, lines 40-44. Therefore, it would have been obvious to one of ordinary skill in the

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art to combine the aforementioned inventions in order to provide a portable map viewing capable of indicating the current location of the user.

5. Claims 9, 13-16, 23-32, 34, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turetzky et al (6,529,829) in view of DeLorme et al (6,321,158).

As per claims 9 and 34, Turetzky does not teach the PDA performing a route calculation. However, DeLorme teaches it in abstract. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to provide a portable map viewing capable of indicating the current location of the user.

As per claims 13 and 14, Turetzky does not teach waypoints, planned route or points of interest. However, DeLorme teaches at column 10.

As per claims 15, 23, 26, 30, 31, 32, 33, 35 and 36, Turetzky teaches:

- providing a first handheld navigation device, the first navigation device and an integral display (column 4, lines 59-67);
- providing a second navigation device to communicate with the first navigation device, the second navigation device including one or more dead reckoning positioning components (column 4, lines 59-64 and column 3, lines 25-27);
- resolving a position of the first and the second navigation devices, wherein resolving the position includes using the one or more dead reckoning positioning components to determine the position when the triangulation positioning functionality is interrupted (column 3, lines 38-42).

Turetzky does not mention the use of triangulation. However, it is obvious to one of ordinary skill in the art that any navigation system needs at least three satellites (triangulation) to

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work properly in the position detection. Further it is obvious that the PDA used by the prior art has a display device. Turetzky does teach including the navigation data including cartographic data including a number of locations and data indicative of thoroughfares of a plurality of types. However, DeLorme teaches it at column 10. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to provide a portable map viewing capable of indicating the current location of the user.

As per claim 16, Turetzky does teach both devices to communicate with one another. However, DeLorme teaches it in column 8, lines 60-64. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to provide a portable map viewing capable of indicating the current location of the user.

As per claim 24, it would have been obvious to one of ordinary skill in the art to use a rate gyro or accelerometer in a navigation system in order to be more accurate.

As per claim 25, it would have been obvious to one of ordinary skill in the art to have at least a dead reckoning including at least an odometer, a speedometer, a differential wheel sensor and a compass in order to work properly.

As per claim 27, Turetzky does not teach the PDA performing a route calculation. However, DeLorme teaches it in abstract. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to provide a portable map viewing capable of indicating the current location of the user.

As per claim 28, Turetzky teaches providing a handheld multifunction device selected from a group of a PDA enabled device and a cell phone enabled device (column 4, line 59-67).

As per claim 29, it obvious to one skill in the art to use the PDA to communicate wirelessly to any other device in order to provide flexibility to the user.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of U.S. Patent No. 6,801,855. Although the conflicting claims are not identical, they are not patentably distinct from each other because the applicant is claiming the same subject matter with the slightly difference of the change of some words like substitute component for functionality. The applicant has omitted some word and/or subject matter using broader language.

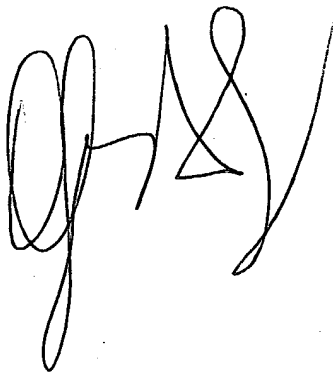
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (571) 272-7144. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571) 272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'OH' with a large loop and a trailing line.

Olga Hernandez  
Examiner  
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